



U.S. Department
of Transportation
**Federal Aviation
Administration**

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Payroll Functional Division

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December 12, 1997

Cynthia L. Johnson, Director
Cash Management Policy and
Planning Division
Financial Management Service
U.S. Department of the Treasury
401 14th Street, S. W., Room 420
Washington D.C. 20227

Dear Ms. Johnson:

This letter is in response to your solicitation of comments on the Proposed Rule for the conversion from paper-based payment methods to electronic funds transfer (EFT) as prescribed in 31 CFR Part 208.

The proposed definition of recipient [Section 208.2(g)] includes public or private entities authorized to receive Federal payments from an agency. Based upon this proposed rule, it does not appear state and local tax authorities who receive payment of employment taxes will be exempt from compliance. Does Treasury plan to amend existing withholding agreements with those authorities to mandate acceptance of tax payments by EFT? If a state or municipality does not provide the information required to make an EFT payment, will we refuse to issue withholding tax payments to tax authorities which are unable or unwilling to accept ACH credit payments after January 1, 1999?

Section 208.4, Waivers, describes the proposed classes of waivers available for individuals. This section also states Treasury "expects that a waiver from payment by EFT will be automatic and based solely on the individual's certification." Will guidelines concerning the documentation of these waivers be provided? Assuming Treasury does not intend to place undue administrative burdens on the agency, will agencies be required to maintain documentation to avoid possible determinations of noncompliance with the regulations in future audits?

Proposed Section 208.4(c) addresses the need for a waiver in instances where "the political, financial, or communications infrastructure in a foreign country does not support payment by EFT." How will agencies be advised of these specific countries?

The proposed waiver for those cases involving a natural or other disaster which would make payment by EFT unfeasible is addressed in Section 208.4(d). It is noted these disaster areas are designated by the President or an authorized agency administrator and the period of the emergency response could extend to 120 days from the date of declaration. It is further noted the agency is expected to provide Treasury with a justification of the need to extend the waiver period.

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How will the agency be advised of financial institutions that may be closed or inaccessible due to such circumstances? Do we assume that all in a disaster area are impacted? Will an extension be required for one or two days after the expiration of that period?

Proposed Section 208.4(g) addresses the issue of the cost of making payments by EFT as opposed to payment by check. Is a cost benefit analysis required to support an agency's decision to issue a check? Will documentation be required and subsequently retained to support that determination?

This section also provides an exception for non-recurring payments defined as a frequency of not more than once in a 12-month period to a particular recipient. The proposed rule should be expanded to include situations where a temporary circumstance which necessitates the need for a paper check could be allowed.

In regards to account requirements (Section 208.6), it would not seem reasonable for Treasury to subsidize or regulate account fees for "unbanked" recipients. Regulation of account fees could place financial burden on the private sector while subsidization could be viewed as "free banking".

If you have any questions regarding the above comments, please contact Donna Worden or Janet Shell of my staff at (405) 954-3667.

Sincerely,

A handwritten signature in cursive script that reads "Joel C. Thomas".

Joel C. Thomas
Manager, Payroll Functional
Division